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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,475	08/29/2001	Laurent Palanchon	1200.518	5342

7590 08/23/2004

Valeo Climate Control Corp.
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EXAMINER

FLANIGAN, ALLEN J

ART UNIT PAPER NUMBER

3753

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/914,475	Applicant(s) PALANCHON, LAURENT	
	Examiner Allen J. Flanigan	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 16-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claims 8-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/1/2003.

Claims 1-5, 7, 16-20, and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Okuda et al.

Please see the comments made in regard to the above rejection in the previous Office action.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okuda et al. in view of Torigoe, or Nishishita.

Please see the comments made in regard to the above rejection in the previous Office action.

Claims 6 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okuda et al. in view of Nishishita.

Please see the comments made in regard to the above rejection in the previous Office action.

Applicant's arguments filed 5/10/2004 have been fully considered, but they are not persuasive.

Applicants have amended claim 1 to recite abutting protrusions on facing plates forming flow channel dividers; however, Okuda et al. specifically teach such an alternative construction (see lines 19-24 of column 10 of Okuda et al.).

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Regarding claims 2 and 4, applicant states, "dimensions down to the millimeter cannot be inferred from simply looking at the drawings". Examiner is not inferring dimensions from the drawings, Okuda et al. gives specific dimensions in the written specification (the appropriate portions of Okuda et al. were cited in the previous Office action, see bottom of page 2). Examiner relies on the drawings only to show what they clearly do show, i.e. the relative dimensions of the channel height and plate thickness; relying on drawings to show proportions is clearly in accord with established precedent. The extent of effort needed to routinely optimize parameters known to be result effective is not probative of obviousness.

It is simply not true as applicant asserts, that claim 5 was not specifically addressed in the previous rejection; see page 3 of the office action. Further, the examiner explained in some detail the *prima facie* case for obviousness regarding claim 21 (see pps. 4-5 of the rejection); the applicant has not offered any secondary evidence or showing establishing the criticality of the claimed ranges.

Applicant's comments regarding Nishishita are not persuasive either. Distinctions based on intended use carry no weight regarding the patentability of a structural claim.

Regarding claim 18, as noted above, Okuda et al. specifically teach the variation of having the top of the pressed ribs 7 abut each other (rather than

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abutting a flat portion between ribs of the facing plate as shown in the drawings).

Applicant's comments with regard to claim 19 are not commensurate in scope with the claims. Claim 19 does not claim that the channel widths are "different"; it merely recites "first" and "second" widths, which may presumably be the same or different. Calling these widths by different names ("first" and "second") does not imply or require that they be different (one can easily imagine, for instance, dependent claims which recite that "the first and second widths being equal", or "the first width being larger (smaller) than the second width").

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen J. Flanigan whose telephone number is (703) 308-1015. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (703) 308-1272. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Allen J. Flanigan
Primary Examiner
Art Unit 3753

AJF